

EXTERIOR PROPERTY MAINTENANCE CODE

CHAPTER 35.

EXTERIOR PROPERTY MAINTENANCE CODE.

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Article I. Purpose and Application.

Sec. 35-1. Title; policy; purpose.

(a) *Title.* This chapter shall be known as the "Exterior Property Maintenance Code of the Town of Westfield" and will hereinafter be referred to as "this Code."

(b) *Findings and declaration of policy.* It is found and declared that there exist in the Town of Westfield vacant lots and premises used for residential and nonresidential purposes which are or may become in the future substandard with respect to structure or maintenance and, further, that such conditions, including, without limitation, structural deterioration, lack of maintenance of the exterior of premises, infestations of vermin are or could become injurious to the public health, safety and welfare.

(c) *Purpose.* This Code sets forth standards with respect to structures and premises, establishes minimum maintenance standards for the exterior of all premises, fixes the

responsibility of owners and occupants or premises, provides for remedial actions and penalties, and is intended to be enforced to protect the values of adjacent properties, health and safety standards and to maintain the aesthetics of the town.

(G.O. No. 1694, § I.)

Sec. 35-2. Construction.

This Code shall be construed liberally and justly to ensure the public health, safety and welfare insofar as they are affected by the continued use and maintenance of premises. (G.O. No. 1694, § I.)

Sec. 35-3. Application of other codes, ordinances and statutes.

Any repairs or alterations to a structure or changes of use therein, which may be caused directly or indirectly by the enforcement of this Code, shall be done in accordance with the procedures and provisions of the Uniform Construction Code. In the event of a conflict between this Code, the Uniform Construction Code and the Uniform Fire Safety Act, the Uniform Construction Code and the Uniform Fire Safety Act shall prevail except in any case where the provisions of this Code impose a higher standard than that set forth in any ordinance of the town or under the laws of the State of New Jersey, then the standards as set forth herein shall prevail; but if the provisions of this Code impose a lower standard than any ordinance of the town or of the laws of the State of New Jersey, then the higher standard contained in any ordinance of the town or of the laws of the State of New Jersey, then the higher standard contained in any such other ordinance or law shall prevail. (G.O. No. 1694, § I.)

Sec. 35-4. Existing remedies not impaired.

The provisions of this Code shall not be deemed to abolish or impair existing remedies or the jurisdiction of any municipal officers relating to the removal or demolition of any buildings which are deemed to be dangerous, unsafe and unsanitary, or any remedies which are available under the Westfield Land Use Ordinance, the Uniform Construction Code, the State Health and Housing Codes, The Westfield Health Code, or the Uniform Fire Safety Act. It shall be up to the discretion of the officials charged with enforcing the provisions of those statutes or ordinances to determine whether or not to seek remedies under those statutes or ordinances. (G.O. No. 1694, § I.)

Sec. 35-5. Effect on other provisions.

This Code shall not affect violations of any other ordinance, statute or regulation existing prior to the effective date hereof, and any such violation shall be continued to be punishable to the full extent of the law under the provisions of those ordinances, statutes or regulations in effect at the time the violation was committed. (G.O. No. 1694, § I.)

Article II. General Provisions.

Sec. 35-6. Enforcement authority.

It shall be the duty and responsibility of the enforcement officer or other officials of the town designated by the town administrator to enforce the provisions of this Code as herein provided. (G.O. No. 1694, § I.)

Sec. 35-7. Alterations or repairs.

Alterations or repairs, other than increasing the height or area of a new structure, may be made to any structure, provided that such new construction conforms to that required by this Code and the Uniform Construction Code. Alterations or repairs shall not cause an existing structure to become unsafe. (G.O. No. 1694, § I.)

Sec. 35-8. Approved materials, equipment and devices.

All materials, equipment and devices approved for use by the enforcement officer shall be constructed and installed in accordance with such approval. (G.O. No. 1694, § I.)

Sec. 35-9. Modification of provisions.

When there are practical difficulties involved in carrying out any provisions of this Code or of any approved rule, the enforcement officer may vary or modify such provision upon application of the owner or the owner's representative, provided that the spirit and intent of the law shall be observed and public welfare and safety assured. (G.O. No. 1694, § I.)

Article III. Word Usage and Definitions.

Sec. 35-10. Word usage generally.

(a) *Interchangeability.* Words used in the present tense include the future; words in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural the singular.

(b) *Terms defined in other codes.* Where terms are not defined in this article and are defined in the Uniform Construction Code, they shall have the same meanings ascribed to them as in the Uniform Construction Code.

(c) *Terms not defined.* Undefined terms shall have their ordinarily accepted meanings.

(G.O. No. 1694, § I.)

Sec. 35-11. Terms defined.

As used in this chapter, the following terms shall have the meanings indicated:

(a) *Approved.* As applied to material, device or method of construction shall mean approved by other authority designated by law to give approval in the matter in question.

(b) *Condemn.* To determine unfit for use or occupancy.

(c) *Condemnation.* The act of condemning in accordance with this Code or the Uniform Construction Code.

(d) *Dwelling unit.* A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

(e) *Enforcement officer.* The enforcement officer shall be a properly qualified town employee as designated from time to time by the town administrator.

(f) *Extermination.* The control and elimination of insects, rats or pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; or by poison spraying, fumigating, trapping or by any other approved pest elimination methods.

(g) *Garbage.* The animal, vegetable and other organic waste resulting from the handling, preparation, cooking and consumption of food.

(h) *Infestation.* The presence within or contiguous to a structure or premises of rats, vermin or other rodents, squirrels, skunks or raccoons.

(i) *Maintenance.* Acts of repair and other acts to prevent a decline in the condition of grounds, structures and equipment such that the condition does not fall below the standards established by this Code and other applicable statutes, codes and ordinances.

(j) *Occupant.* Any person, including domestic service employees, living and/or sleeping in a dwelling unit or having possession of a space within a structure.

(k) *Operator.* Any person who has charge, care or control of a premises, or part thereof, whether with or without the knowledge and consent of the owner.

(l) *Owner.* Any person having the legal or equitable interest in the property; or recorded in the official records of state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

(m) *Person.* Any individual, corporation, partnership, Limited Liability Company, trust or other entity.

(n) *Premises.* A lot, plot or parcel of land, including any buildings or structures thereon.

(o) *Property Maintenance Code enforcement committee.* A committee of town officials appointed as set forth herein having five members. The members of this committee shall be the town administrator, the town engineer, a member of the Board of Health appointed for a one-year term commencing January 1, appointed by the president of the Board of Health, a Class IV member of the Planning Board appointed by the chairman of the Planning Board for a one-year term commencing January 1, and a town employee appointed by the town administrator for a one-year term commencing January 1. Any hearing before such committee shall be attended by at least three of such persons.

(p) *Public nuisance.* Includes, without limitation, the following:

(1) The physical condition or use of any premises which is recognized in law or equity jurisprudence, or as provided by the Statutes of the State of New Jersey or in the ordinances of the Town of Westfield as a public nuisance;

(2) Any physical condition, use or occupancy of any premises or its appurtenances considered an attractive nuisance to children, including but not limited to abandoned wells, shafts, basements and excavations;

(3) Any premises which has unsanitary sewage facilities;

(4) Any premises designated as unsafe for human habitation or use;

(5) Any premises on which is stored flammable substances in an unsafe manner;

(6) Any premises with respect to which the required precautions against trespassers have not been provided;

(7) Any premises which is unsanitary or which is littered with rubbish or garbage or which has an uncontrolled growth of weeds or other vegetation; or

(8) Any structure or building that is in a state of dilapidation, deterioration or decay; faulty construction; open or abandoned; damaged by fire to the extent as not to provide shelter, in danger of collapse or failure and dangerous to anyone on or near the premises.

(q) *Rubbish.* All combustible and noncombustible waste material, or packaged recyclables, except garbage, including, without limitation, paper, cartons, boxes, wood, rubber, plastic, leather, tree branches, tree limbs or tree roots, tree rounds, yard trimmings, metal containers, glass, dead animals, excavation materials, abandoned bricks and other construction materials, industrial waste and abandoned motor vehicles and boats.

(r) *Structure.* Any assembly of materials forming a construction, including, but not limited to, buildings, stadiums, tents, platforms, towers, poles, aboveground and below ground storage tanks, trestles, sheds, bins, shelters, fences, walls, mobile homes or trailers, portable buildings, display racks and signs, swimming pools, tennis courts, decks and patios.

(s) *Supplied.* Installed, furnished or provided by the owner or operator.

(t) *Uniform Construction Code.* The Uniform Construction Code adopted by the State of New Jersey for the regulation of construction, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of buildings and structures.

(G.O. No. 1694, § I.)

Article IV. Enforcement Authority.

Sec. 35-12. Designation.

It shall be the duty and responsibility of the enforcement officer to enforce the provisions of this Code as herein provided. In enforcing this Code the enforcement officer shall consult or seek the advise of licensed town employees whose qualifications and licensing are related to the provisions of this Code or related codes which are the subject of the such enforcement activities. Such other town employees shall cooperate with and aid the enforcement officer in the enforcement of this Code. (G.O. No. 1694, § I.)

Sec. 35-13. Relief from personal liability.

Any employee of the town working under the supervision of the enforcement officer who acts in good faith and without malice in the discharge of duties of enforcement of this Code is relieved of all personal liability for any damage that may accrue to persons or property as a result of such acts or alleged failure to act. Further, the enforcement officer shall not be held liable for any costs in any action, suit or proceeding that may be instituted by the enforcement officer in the enforcement of this Code. (G.O. No. 1694, § I.)

Sec. 35-14. Issuance of notices and orders.

The enforcement officer shall issue all necessary notices, orders and summons to abate illegal or unsafe conditions to ensure compliance with this Code's requirements for the safety, health and general welfare of the public and to enforce the provisions of this Code. (G.O. No. 1694, § I.)

Sec. 35-15. Inspections and access to premises.

Except in emergent circumstances when the enforcement officer determines that the safety, health and welfare of the public is threatened, the enforcement officer shall not enter any premises for the purpose of making inspections and performing duties under this Code without first making a bona fide effort to secure the consent of the occupant or the operator of the premises. If the enforcement officer is unable to secure the consent of the occupant or operator, the enforcement officer may seek the permission of the owner to enter the premises and, failing to receive such permission, may exercise the remedies in the following section. In no event shall an inspection interfere with the legal or constitutional rights of the owner, operator or occupant. (G.O. No. 1694, § I.)

Sec. 35-16. Requirements to gain the right of entry.

If any owner, operator, occupant or other person in charge of a premises refuses, impedes, inhibits, interferes with, restricts or obstructs entry and access to any part of the premises where inspection authorized by this Code is sought, the enforcement officer may seek, in a court of competent jurisdiction, an order that such owner, operator, occupant or other person in charge of the premises cease and desist with such interferences and request a warrant or order permitting entry. (G.O. No. 1694, § I.)

Sec. 35-17. Access by owner or operator.

Every occupant of a premises shall give the owner or operator thereof or such person's agent or employee access to any part of the premises at reasonable times for the purpose of making such inspection, maintenance, repairs or alterations as are necessary to comply with the provisions of this Code. If the occupant refuses access to the owner to make the repairs the occupant shall be liable for any violations not corrected. (G.O. No. 1694, § I.)

Sec. 35-18. Proper credentials to be disclosed.

The enforcement officer or the enforcement officer's authorized representative shall disclose proper credentials of his respective office for the purpose of inspecting any and all premises in the performance of duties under this Code. (G.O. No. 1694, § I.)

Sec. 35-19. Coordination of enforcement.

Inspection of premises, the issuance of notices and orders and enforcement thereof for purposes of this Code, shall be the responsibility of enforcement officer. Whenever, in the opinion of the enforcement officer, it is deemed necessary or desirable to have inspections by any other official of the town or other governmental unit, the enforcement officer shall make reasonable effort to arrange for the coordination of such inspection so as to minimize the number of visits by inspectors and for the purpose of eliminating conflicting orders before any are issued. Any official of the town shall not, however, delay the issuance of any emergency orders which he determines must be issued. Enforcement may be undertaken by any town official with the authority under another applicable ordinance or statute to enforce a violation of any statute or ordinance dealing with the same subject matter. (G.O. No. 1694, § I.)

Sec. 35-20. Rule-making authority.

The enforcement officer shall have power as may be necessary in the interest of public safety, health and general welfare to adopt and promulgate rules and regulations to interpret and implement the provisions of this Code to secure the intent thereof and to designate requirements applicable because of local climatic or other conditions; but such rules shall not have the effect of waiving fire-protection requirements or violating accepted engineering practice involving public safety. The adoption and promulgation of rules and regulations hereunder shall be subject to the final approval of the town council. (G.O. No. 1694, § I.)

Article V. Unsafe Structures; Condemnation.

Sec. 35-21. Unsafe structures.

A structure is dangerous to life, health, property or safety of the public, when it is determined by the enforcement officer as not providing minimum safeguards for protection from fire and weather; being so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or having an unstable foundation such that the structure is likely to collapse either partially or completely; being in a state of substantial disrepair or having chronic infestation. (G.O. No. 1694, § I.)

Sec. 35-22. Closing of structures; condemnation.

If the enforcement officer has determined that a structure or part thereof is dangerous to life, health, property or safety of the public as provided in section 35-2.1, the

enforcement officer may, by order, condemn the premises, post a placard of condemnation on the premises, and order the structure vacated and closed up so that it will not be an attractive nuisance. Upon the failure of the owner to close up the premises within the time specified in the order, the enforcement officer shall cause it to be closed through any available public agency or by the contract or arrangement by private persons, and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate. (G.O. No. 1694, § I.)

Sec. 35-23. Contents of placard.

The placard of condemnation shall bear the words "condemned as dangerous to life, health, property or safety of the public", if applicable, a statement of the date by which the structure must be vacated and a statement of the potential penalties for occupying the premises or for removing the placard. (G.O. No. 1694, § I.)

Sec. 35-24. Occupancy of placarded structures; unlawful removal of placard.

A placarded structure shall not be reoccupied without the approval of the enforcement officer. Any person who shall occupy or let another occupy a placarded premises, who shall use or let another use placarded equipment or who defaces or removes a condemnation placard without the approval of the enforcement officer, shall be subject to the penalties provided by this Code. (G.O. No. 1694, § I.)

Sec. 35-25. Removal of placard.

The enforcement officer shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. (G.O. No. 1694, § I.)

Article VI. Demolitions and Repairs.

Sec. 35-26. Authority to order demolitions or repairs.

The enforcement officer may order the owner of premises upon which is located any structure or part thereof which, in the enforcement officer's judgment, is so dilapidated, or is in such a state of disrepair as to be dangerous, to life, health, property or safety to the public, as provided in section 35-21, to raze and remove the structure or part thereof. The enforcement officer may order the owner of premises upon which is located any partially constructed structure where there has been a cessation or normal construction activity for a period of more than two years, to raze and remove such structure or part thereof. If in the enforcement officer's judgment, a structure or part thereof can be made safe by repairs, the enforcement officer may order the owner or premises to repair and make such structure or part thereof safe and sanitary, or to raze and remove the structure at the owner's option. An appeal of such order by the owner shall stay any repair or demolition order unless the enforcement officer certifies it is to be an emergency affecting public safety. (G.O. No. 1694, § I.)

Sec. 35-27. Unreasonable repairs.

Whenever the enforcement officer determines that the cost of repairs to a structure would exceed one hundred percent of the current value of such structure, such repairs shall be presumed unreasonable, and it shall be presumed for the purpose of this article that such structure is a public nuisance which may be ordered razed without option on the part of the owner to repair. (G.O. No. 1694, § I.)

Sec. 36-28. Failure to comply; charge of costs.

Whenever the owner of a structure fails to comply with a demolition order or notice of violation within the time prescribed, and provided that there has been compliance with the provisions of article X and article XI and enforcement officer determine that public safety requires security to be posted to keep the public away from the premises and the owner after notice refuses to supply such security it may be supplied by the town and charged against the real estate. The enforcement officer may in addition cause the structure or part thereof to be razed and removed or repaired, either through an available public agency or by contract or arrangement with private persons, and the cost of such razing and removal or repair shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate. (G.O. No. 1694, § I.)

Sec. 36-29. Sale of salvage materials; proceeds.

When any structure has been ordered razed and removed, the town council or an official of the town designated by the town council, may sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such razing and removal, shall be remitted promptly, together with a report of such sale or transaction, including the items of expense and the amounts deducted, for the use of the person who may be entitled thereto, subject to any order of a court of competent jurisdiction. If such a surplus does not remain to be turned over, the report shall so state. (G.O. No. 1694, § I.)

Article VII. General Maintenance Requirements.

Sec. 35-30. General provisions.

(a) *Scope.* The provisions of this article shall set forth standards for the maintenance of those portions of premises covered by this Code. Premises shall comply with the standards herein prescribed insofar as they are applicable.

(b) *Responsibility.* The owner of the premises shall maintain such premises in compliance with these requirements. A person shall not occupy as owner or permit to life, health, property or safety of the public.
(G.O. No. 1694, § I.)

Sec. 35-31. Excavation sites.

Any excavation site except such sites as are associated with an active construction project shall be completely surrounded by a solid screen fence, at least six feet in height, which shall be constructed in a manner so that the site is obscured from the public. (G.O. No. 1694, § I.)

Sec. 35-32. Sanitation.

All premises shall be maintained in a clean, safe and sanitary condition, free from any accumulation of rubbish or garbage, and in a manner so as not to constitute a public nuisance or otherwise adversely affect the public health or safety. (G.O. No. 1694, § I.)

Sec. 35-33. Containers.

The owners or occupants of every premises generating garbage or rubbish shall provide, and at all times cause to be used, sealed approved containers provided with close-fitting covers for the storage of the garbage or rubbish until removed from the premises for disposal and such containers shall be located in the rear yard of all properties including corner properties devoted to commercial use. Such containers shall be screened from view from a public street or parking lot by solid fencing or vegetation. On any property devoted to commercial, industrial or multi-family use, where such rear yard location is not possible because of lack of space or access, such practical shall be screened with view from the public street or parking lot as set forth above. (G.O. No. 1694, § I.)

Sec. 35-34. Grading, drainage and sump pump discharge.

All premises shall be graded and maintained so as to prevent the accumulation of stagnant water thereon. Stagnant water shall be determined as any accumulation that has not dispersed within three days of the last recorded local rainfall. Pools and hot tubs in regular use are exempt from the requirement of this section. Sump pump discharge shall be routed to the roadway, storm sewer or on the ground. No sump pump shall be connected to the sanitary sewer. (G.O. No. 1694, § I.)

Sec. 35-35. Loading areas.

Except as otherwise permitted by resolution of the planning board or the zoning board of adjustment, or as provided in the Land Use Ordinance, all loading areas shall be paved with bituminous, concrete or equivalent surfacing and shall be free from dirt and other litter and kept in good repair. When lighted for nighttime use, lights shall not be permitted to shine directly upon dwellings nearby. (G.O. No. 1694, § I.)

Sec. 35-36. Rat control.

The owner of a premise shall be responsible for the extermination of rats, vermin or other pests in all interior and exterior areas of the premises, except that the occupant shall be responsible for such extermination in a single-family dwelling. (G.O. No. 1694, § I.)

Sec. 35-37. Public areas.

All public sidewalks, steps, driveways, parking spaces and similar paved areas for public use shall be maintained in a state of repair, free of all snow, ice, mud and rubbish and free of hazardous conditions. If any public sidewalk, steps or driveway for public use, or portion thereof, by virtue of its state of disrepair shall constitute a danger to public health and safety, the sidewalk, steps or driveway for public use, or portion thereof shall be replaced or repaired. Steps shall comply with the requirements for exterior stairs set forth in article VIII. (G.O. No. 1694, § I.)

Sec. 35-38. Grass and other plant growth.

All premises shall be maintained free from grass growth, weeds or other plant growth which are detrimental to the public health and welfare, or excessively overgrown as compared to the character and condition of the surrounding properties and where the same could constitute a blighting influence, and impair the appearance of nearby properties. (G.O. No. 1694, § I.)

Sec. 35-39. Storage areas.

All commercial open yards and open storage areas shall be completely screened from adjacent premises and the public right-of-way by a solid screen fence or vegetation. The provisions of the Westfield Land Use Ordinance regarding other requirements for outdoor storage shall apply notwithstanding these provisions. (G.O. No. 1694, § I.)

Sec. 35-40. Exhaust vents.

Pipes, ducts, conductors, fans or blowers discharging gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes shall be constructed, maintained and operated in a manner so as to not cause discharge directly upon abutting or adjacent dwelling units or premises. (G.O. No. 1694, § I.)

Sec. 35-41. Open fires.

Open fires shall be prohibited except as specifically approved by the fire department. (G.O. No. 1694, § I.)

Sec. 35-42. Motor vehicles and boats.

Motor vehicles and boats located upon premises shall be subject to the following requirements:

(a) *Residential areas.* No unregistered or uninspected motor vehicle or boat shall be parked ungaraged on any property in a residential district as defined in the Land Use Ordinance of the Town. No motor vehicle or boat which is in a state of major disassembly, disrepair or in the process of being stripped or dismantled, shall be parked ungaraged or unscreened from the public view, in such a residential district. No motor vehicle or boat shall at any time undergo a major overhaul, including bodywork, in such a residential district, unless such work is performed inside a structure designed and approved for such purposes.

(b) *Nonresidential areas.* No unregistered or uninspected motor vehicle, with the exception of new and used cars displayed for sale by new car dealers, or boat shall be permitted on any property in a nonresidential district unless the same is garaged or properly screened so that said vehicle or boat is obscured from adjacent premises and the public view.

No motor vehicle or boat in a state of major disassembly or disrepair or in the process of being stripped or dismantled shall be permitted in a nonresidential district, unless the same is garaged or properly screened so that said vehicle or boat is obscured from adjacent premises and the public view.

(c) The provisions of the Westfield Land Use Ordinance regarding other requirements for outdoor storage of boats, trailers and motor vehicles shall still apply notwithstanding these provisions.

(G.O. No. 1694, § I.)

Article VIII. Maintenance of Exterior of Structures.

Sec. 35-43. General provisions.

The exterior of a structure and all necessary structures shall be maintained in good repair, structurally sound and sanitary manner (i) so as not to constitute a public nuisance or have a blighting effect and impair the appearance of neighboring properties, or (ii) otherwise pose a threat to the health, safety of welfare of the occupants of the premises or the public. The application and enforcement of each of the other section of this article VIII shall be in accordance with the foregoing standards. (G.O. No. 1694, § I.)

Sec. 35-44. Supporting structural members.

All supporting structural members of all structures shall be kept structurally sound, free of deterioration and maintained capable of safety bearing the dead and live loads imposed upon them. (G.O. No. 1694, § I.)

Sec. 35-45. Foundation walls.

All foundation walls shall be maintained so as to carry the safe design and operating dead and live loads and shall be maintained free from open cracks and breaks, so as not to constitute a public nuisance or otherwise be detrimental to public safety and welfare. (G.O. No. 1694, § I.)

Sec. 35-46. Exterior walls and fences.

All exterior walls shall be free of holes, breaks, loose or rotting boards or timbers and any other conditions which might admit rain or dampness inside the walls. All exterior surface materials, including wood, composition or metal siding, shall be maintained weatherproof and shall be properly surface-coated when required to prevent deterioration. All fences shall be maintained structurally sound and free of rot. (G.O. No. 1694, § I.)

Sec. 35-47. Roofs and drainage.

All roofs shall be structurally sound, tight and not have defects which might admit rain. Roof drainage shall be adequate to prevent rainwater from causing dampness or deterioration of, or entering the structure. Roof water shall not be discharged in a manner that creates a nuisance to owners or occupants of adjacent premises or that creates a public nuisance. Discharge of roof drains shall be to the roadway storm sewer system or on the ground. No roof drainage shall be connected to the sanitary sewer. (G.O. No. 1694, § I.)

Sec. 35-48. Signs, marquees and awnings.

All canopies, marquees, signs, metal awnings, stairways, fire escapes, standpipes, exhaust ducts and similar overhang extensions shall be maintained in good repair and be properly anchored so as to be kept in a safe and sound condition. (G.O. No. 1694, § I.)

Sec. 35-49. Chimneys.

All chimneys, cooling towers, smoke stacks and similar appurtenances shall be maintained structurally safe, sound and in good repair. (G.O. No. 1694, § I.)

Sec. 35-50. Stairs and porches.

(a) Every stair, porch, fire escape or balcony and all appurtenances attached thereto shall be so constructed as to be safe to use and capable of supporting the anticipated loads and shall be maintained in sound condition and good repair. Every stair, porch and fire escape shall be maintained free of hazardous conditions such as snow, ice, mud and rubbish.

(b) Every flight of stairs which is more than four risers high and which is appurtenant to a structure which contains more than one dwelling unit or is used for commercial purposes, shall have a handrail on at least one side of the stair, and every

open portion of a stair fire escape, porch, landing or balcony which is more than thirty inches above the grade below shall have guardrails. Handrails shall be not less than thirty inches nor more than thirty-four inches, measured vertically above the nosing of the treads. Guardrails shall be not less than thirty inches high above the floor of the porch, landing or balcony. Every handrail and guardrail shall be firmly fastened and capable of bearing normally imposed loads and shall be maintained in good condition. (G.O. No. 1694, § I.)

Sec. 35-51. Glazing of window sashes.

All required window sashes shall be glazed with glass which is free from holes so as to exclude wind, rain or snow from entering the structure. (G.O. No. 1694, § I.)

Sec. 35-52. Insect screens.

During the period from April 1 to December 1, every door and window or other outside opening used for ventilation purposes serving any building containing more than one dwelling unit, and any building used for commercial purposes containing food preparation areas, food service areas or any areas where products used in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tight fitting screens of not less than sixteen mesh per inch, and every swinging screen door shall have a self-closing device in good working condition. (G.O. No. 1694, § I.)

Sec. 35-53. Basement hatchways.

All basement hatchways shall be maintained as to prevent the entrance of rats, rain and surface drainage water into the structures. (G.O. No. 1694, § I.)

Sec. 35-54. Guards for basement windows.

All basement windows shall be supplied with guards of a material affording protection against the entry of rats. (G.O. No. 1694, § I.)

Article IX. Vacant Storefronts.

Sec. 35-55. Vacant storefronts.

The owner of any commercial building which has a display window facing the street and which becomes vacant shall install a temporary drop screen located a minimum of three feet and a maximum of ten feet back from the window surface in order to obscure the vacant interior of the premises. Such location shall be determined by the availability of places where such screen can be supported. If there are no such supports, the screen can be placed directly in the windows. Such screens shall be opaque and dark in color and may be constructed of cloth, sheetrock or other similar material, but shall not be of plastic or paper. The owner of the premises may install a public service display or other

decorative material in the space between the window and the screen. (G.O. No. 1694, § I.)

Article X. Violations; Notices and Orders.

Sec. 35-56. Determination of violation.

Whenever (i) a petition is filed with the enforcement officer by a public authority or by five residents of the town, not residing in the same dwelling unit, all of whom, must disclose their names and addresses of five business owners all of whom must disclose their names and addresses, charging that any premises or portion thereof is in violation of this Code, provided that the enforcement officer, after an investigation which shall be conducted promptly, agrees with such charge; or (ii) it is determined by the enforcement officer on the basis of an independent investigation that any premises or portion thereof is in violation of this Code or that any condition constitutes a public nuisance within the meaning of this chapter or otherwise presents a condition harmful to the health and safety of the occupants of premises or the public, he shall give notice of such violation to the person or persons responsible therefor as hereinafter provided. (G.O. No. 1694, § I.)

Sec. 35-57. Notice to owner or responsible persons.

Notices of violations of this Code and any orders issued pursuant to this Code shall be given by the enforcement officer to the owner and occupant of the applicable premises, or to the person or persons responsible therefor, in the manner prescribed below. If the enforcement officer has condemned the property or a part thereof, the enforcement officer shall give notice to the owner and to the occupants of the intent to placard and to vacate the property, to order equipment out of services or to demolish or repair a structure, as applicable. (G.O. No. 1694, § I.)

Sec. 35-58. Contents of notices and orders.

A notice or order pursuant to this Code shall:

- (a) Be in writing.
- (b) Include a description of the real estate sufficient for identification.
- (c) Include a statement of the reason or reasons why it is being issued.
- (d) In the case of a condemnation order, include a date by which the premises must be vacated and closed up.
- (e) If applicable, include a correction order allowing thirty days for the repairs and improvements required to bring structure into compliance of this Code. The recipient of said notice may apply for an extension of time for such work to be completed to the enforcement officer which may be granted or denied at the discretion of the enforcement officer. A shorter time period may be required by the enforcement officer if in his opinion it is required for reasons of public safety.
- (f) Include an explanation of the owner's right to seek modification or withdrawal of the notice or order by petition of appeal to the Property Code Enforcement Committee,

or in the case of a demolition order, include a date by which application for a restraining order may be made to a court of competent jurisdiction.

(g) Include a statement of the penal and remedial provisions available to the town for noncompliance.

(G.O. No. 1694, § I.)

Sec. 35-39. Service of notice or order.

Except in the case of an order of demolition, service of a notice or order shall be made by delivering same to the owner and occupant personally, or sent by certified or registered mail and regular mail addressed to the occupant and to the owner at the last known address with return receipt requested and regular mail; or if a certified or registered letter to the occupant is returned with receipt showing that it has not been delivered, by posting a copy thereof in a conspicuous place in or about the structure affected by such notice. (G.O. No. 1694, § I.)

Sec. 35-60. Order of demolition.

An order of demolition shall be served upon the occupant of a structure, if any, upon the owner of record and upon the holder of any mortgage of record, in the same manner provided for service of a summons by a court of competent jurisdiction. If the owner or the holder of a mortgage of record cannot be found, the order may be served by posting a copy thereof in a conspicuous place in or about the structure affected by such notice, by mailing a copy by regular mail and by publishing it once a week for three successive weeks in the newspaper which has been designated as the official newspaper of the town. (G.O. No. 1694, § I.)

Sec. 35-61. Transfer of ownership.

It shall be unlawful for the owner of any premises who has received a notice of violation or condemnation of demolition order, to sell, transfer, lease or otherwise dispose of such premises, or any part thereof, until the provisions of the condemnation order, demolition order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee or lessee, a true copy of any condemnation order, demolition order or notice of violation issued by the enforcement officer and shall furnish to the enforcement officer a signed and notarized statement from the grantee, transferee or lessee, acknowledging the receipt of such condemnation order or demolition order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such condemnation order, demolition order or notice of violation. (G.O. No. 1694, § I.)

Sec. 35-62. Unlawful acts.

It shall be unlawful for any person to erect, construct, alter, extend, repair, remove, demolish, use or occupy any structure, or to cause the same to be done contrary to or in

conflict with, or in violation of any of the provisions of this Code, or any order issued hereunder. (G.O. No. 1694, § I.)

Article XI. Hearings; Emergency Orders.

Sec. 35-63. Right to a hearing.

Any person affected by any order or notice of violation which has been issued in connection with the enforcement of any provision of this Code or of any rule or regulation adopted pursuant hereto may request and shall be granted a hearing on the matter before the Property Code Enforcement Committee. A written petition requesting such a hearing and containing a statement of the grounds therefor shall either be delivered personally to the town administrator or sent by certified or registered mail, return receipt requested, within ten business days after the notice or order was served. Filing of such petition shall stay any further enforcement provisions until the committee has returned a final determination. (G.O. No. 1694, § I.)

Sec. 35-64. Hearing.

Upon receipt of such petition, the town administrator shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing, the petitioner shall be given an opportunity to be heard and to show why such notice of violation or order should be modified or withdrawn. The hearing shall be commenced not later than ten business days after the day on which the petition was filed, provided that upon application of the petitioner, the town administrator may postpone the date of the hearing for a reasonable time beyond such ten day period if, in his judgment, the petitioner has submitted a good and sufficient reason for such postponement. After such hearing, the Property Code Enforcement Committee shall sustain, modify or withdraw the notice of violation or order, depending upon its findings as to whether the provisions of this chapter have been complied with. If the Property Code Enforcement Committee sustains or modifies such order or notice, or if a written petition for a hearing is not filed with the town administrator within ten business days after the order or motion is served, the notice of violation and order shall be deemed to be final. (G.O. No. 1694, § I.)

Sec. 35-65. Record of proceedings.

The proceedings at a hearing, including the findings and decision of the Property Code Enforcement Committee, shall be electronically recorded, shall be summarized, reduced to writing and entered as a matter of public record in the office of the town clerk. Such record shall also include a copy of every notice or order issued in connection with the matter. Any person aggrieved by a decision of the Property Code Enforcement Committee or other final order may seek relief therefrom in any court of competent jurisdiction. Such tape-recorded record shall be retained for sixty days after the final decision is recorded. (G.O. No. 1694, § I.)

Sec. 35-66. Emergencies.

Whenever the enforcement officer finds that an emergency exists which requires immediate action to protect the public safety, he may, without an opportunity for a hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as the enforcement officer deems necessary to meet the emergency. Such order shall be deemed a final order and shall be effective immediately, provided, however, that any person aggrieved therefrom may seek relief in any court of competent jurisdiction. (G.O. No. 1694, § I.)

Article XII. Hardships.

Sec. 35-67. Hardships.

Any person who has received a notice of violation, condemnation order or demolition order may also petition to request a hearing if such person because of financial or personal hardship seeks a modification of such notice or order or seek a postponement of enforcement. The Property Code Enforcement Committee shall proceed as set forth above and after a hearing may take whatever action the committee deems appropriate under the circumstances including granting or denying such request or postponing enforcement. (G.O. No. 1694, § I.)

Article XIII. Certificates of Necessity.

Sec. 35-68. Who may apply.

Any owner, operator or occupant who is required to make repairs or otherwise improve a premises and is unable to comply with this Code without having a right of access to the premises through or across adjoining premises not owned by such person or under such person's control or if a right of access has been refused or if the person empowered to grant such access cannot be found or located, may file an affidavit with the enforcement officer setting forth the applicable facts and applying for a certificate of necessity. The enforcement officer shall give written notice of a hearing on said application to the applicant for such certificate and to the person empowered to grant access by certified or registered mail, return receipt requested. At least ten days notice of such hearing shall be given where the address of the person empowered to grant access is known by the enforcement officer. If the address of the person empowered to grant access is not known by the enforcement officer or cannot be ascertained in the exercise of reasonable diligence, at least thirty days notice of such hearing shall be given. (G.O. No. 1694, § I.)

Sec. 35-69. Hearing.

On the day fixed for the hearing, the enforcement officer shall provide opportunity for the person empowered to grant access to state why such access should not be granted. (G.O. No. 1694, § I.)

Sec. 35-70. Conditions for issuance of certificate.

If the enforcement officer determines that access through or across adjoining premises is necessary to accomplish or complete repairs or improvements for compliance with this Code, then the enforcement officer shall issue a certificate of necessity granting and ordering access and setting forth therein the person or persons to whom the certificate shall apply, such conditions as shall be necessary to protect adjoining premises, reasonable time limits during which such certificate shall be in effect, precautions to be taken to avoid damage, and when the enforcement officer deems appropriate, the procurement of a bond at the expense of the person seeking access to secure the adjoining property owner against damage to person or property arising out of such right of access. In setting the amount for a bond, the enforcement officer shall take into consideration the extent, nature and duration of the repairs and improvements, the proximity thereof to the premises over which access has been sought and the potential risk of damage thereto. Said bond, if required, shall be filed with the enforcement officer. (G.O. No. 1694, § I.)

Sec. 35-71. Refusal to comply with certificate.

Any refusal to comply with a certificate issued hereunder or any interference with the purpose for which a certificate is issued shall be a violation of this Code and, in addition to the penalties provided hereunder, the enforcement officer may, upon affidavit, setting forth the facts, apply to a court of competent jurisdiction for a warrant authorizing access. (G.O. No. 1694, § I.)

Article XIV. Violations and Penalties.

Sec. 35-72. Violations and penalties.

Any person who shall fail to correct a notice of violation within the time required or violates a final order under the provisions of this chapter or refuses to comply with a certificate of necessity, shall be served a summons for violation of this chapter, and shall, upon conviction in municipal court, be punished by a fine not to exceed one thousand dollars. Each day that such violation continues shall be considered a separate offense. (G.O. No. 1694, § I.)

Article XV. Costs Assessable as Property Taxes.

Sec. 35-73. Costs assessable as property taxes.

The cost of the filing of legal papers, expert witnesses fees, search fees, publications and advertising charges incurred in the course of any proceeding under this chapter which is not determined by a court of competent jurisdiction adverse to the town, any demolition costs or costs for repairs, alterations or improvements to a structure, or the costs of vacating and closing a structure authorized under this Code, incurred by the town, or the amount of the balance thereof remaining after deduction of the sum, if any, realized from the sale of salvage materials derived from a demolished structure, shall be a lien against the real property with respect to which such costs were incurred. The enforcement officer shall certify the costs thereof to the tax assessor, who shall cause the costs to be charged against said real property. The amount so charged shall forthwith be added to the property taxes next to be assessed and levied upon such real property, the same to bear interest at the same rate as property taxes, and shall be collected and enforced by the town and in the same manner as property taxes. (G.O. No. 1694, § I.)